

**MINUTES OF THE  
CITY PLANNING COMMISSION  
JULY 6, 2007  
J. MARTIN GRIESEL CONFERENCE ROOM  
TWO CENTENNIAL PLAZA – SUITE 700  
805 CENTRAL AVENUE**

**CALL TO ORDER**

Mr. Faux called the meeting to order at 9:00 a.m.

**Commission Members:**

***Present:*** Caleb Faux, James Tarbell, Rainer vom Hofe, Scott Stiles and John Schneider.

**Community Development and Planning Staff:** Margaret Wuerstle, Bonnie Holman, Felix Bere, Steve Briggs and Caroline Kellam.

**Law Department:**

Julia Carney

**APPROVAL OF MINUTES**

Submission of the minutes from the June 15, 2007 Planning Commission meeting for approval.

<b>Motion:</b>	Mr. vom Hofe moved approval of minutes.
<b>Second:</b>	Mr. Schneider
<b>Ayes:</b>	Mr. Faux, Mr. Tarbell, Mr. Stiles, Mr. vom Hofe and Mr. Schneider
<b>Nays:</b>	None, <b>motion carried</b>

**CONSENT ITEMS**

**ITEM #1** A report and recommendation on the conveyance of certain real property located adjacent to Rawson Woods, from Mr. Paul Pratt to the City of Cincinnati, to be under control of the Board of Park commissioners.

**ITEM #2** A report and recommendation on approving and accepting the properties donated to the City of Cincinnati from the Hamilton County Park District to be under the control of the Board of Park Commissioners in the vicinity of Mt. Airy Forest.

**ITEM #3** A report and recommendation on accepting and confirming the dedication of a conservation easement in Mt. Washington to public use in accordance with a Conservation Easement Agreement from The Hillside Trust.

**Motion:** Mr. vom Hofe moved approval of Consent Items #1-3.  
**Second:** Mr. Schneider  
**Ayes:** Mr. Faux, Mr. Tarbell, Mr. Stiles, Mr. vom Hofe and Mr. Schneider  
**Nays:** None, **motion carried**

### **DISCUSSION ITEMS**

**ITEM #4** A report and recommendation on an ordinance authorizing the sale to Dan Druffel, Inc. of Lindsay Alley west of Boone Street.

*Ms. Caroline Kellam, Senior Planner presented this item.*

#### **BACKGROUND:**

The City owns Lindsay Alley west of Boone Street (Lindsay). Dan Druffel, Inc. (Druffel) has petitioned to purchase Lindsay Alley. Druffel owns property abutting Lindsay on which it operates a landscaping business. Druffel intends to use Lindsay in the operation of its business. An appraisal performed by Real Estate Services has determined that the value of the benefits that will accrue to the Petitioner as a result of the sale is \$3,030.00. The Petitioner has deposited this amount with the City Treasurer. All of the conditions and easements in the Coordinated Report for the sale have been met or are in the Ordinance.

The only other abutter has not given consent to the sale. Therefore, notice of the petition to purchase must be published for six consecutive weeks prior to any final council action.

#### **RECOMMENDATION:**

Department of Community Development and Planning staff recommended that City Planning Commission take the following action:

Authorize the City Manager to enter into a Sale Agreement with Dan Druffel, Inc., for the purchase of Lindsay Alley west of Boone Street, which property is not needed for any municipal purpose.

### **DISCUSSION**

Ms. Kellam gave a brief overview of the staff report and pointed out the photographs that were included.

Mr. Faux stated that he recalled from the previous meeting that the abutting property owner, Herb Washington stated that the fencing of Lindsay Alley eliminated access to a portion of his property. Ms. Kellam acknowledged that Lindsay Alley was fenced and blocked access to the abutting property.

Mr. vom Hofe stated that the staff report read that the value of the benefits that will accrue to the Petitioner as a result of the sale was \$3,030.00. He asked why a market rate value was not used. Mr. Michael Jackson, Real Estate Division, stated that an appraiser

evaluated the property and it was appraised based on surrounding property. The fair market value was determined to be \$3,030.00. Once the price of the property was set the property owners were notified of the purchase price and payment deadline for each of their portions of the Lindsay Alley property. Mr. Washington did not follow through with payment and so the full amount was offered to Mr. Druffel. Mr. Jackson further said that Mr. Druffel had paid the full amount but that the sale has not been finalized due to the fact that it must be approved by the City Council.

Mr. Stiles asked if originally the property was divided in half and one half offered for sale to each Mr. Druffel and Mr. Washington. Mr. Jackson used a map and explained that initially a small portion of the property was to be sold to SORTA and that the portions adjacent to each of the abutting properties were offered for sale. SORTA did not purchase their portion of property and Mr. Druffel agreed to purchase that portion as well.

Mr. Schneider asked if there was space for Mr. Washington to access his property to maintain his building. Ms. Kellam stated that Mr. Washington would have to cross Mr. Druffel's property to perform maintenance on one elevation of his property. Mr. Faux asked if there was an easement and Ms. Kellam responded that she was not aware of an easement.

Mr. Schneider asked for the timeline of notification regarding the sale of Lindsay Alley. Mr. Jackson stated that after November 2006, when he had been assigned the case, he had personally called Mr. Washington, a City employee, and informed him of the purchase price and deadline for payment. He said further that on March 1, 2007 he hand delivered an official letter containing the purchase and deadline information to Mr. Washington. He sent a letter stating his interest in purchasing the property but did not send the payment by the deadline and made no further contact until recently.

Mr. Washington stated that he was not informed of the purchase price until two weeks prior to the deadline for payment and did not have the money at that time. He stated that he would need to maintain windows, do exterior painting and install a drainage system on the side of his building that was fenced off by Mr. Druffel. He stated that he was aware that Mr. Druffel was doing his project and thought that when the fence went up that the property had been sold. He said he was not aware of the long process required for the purchase of the property and that he became aware of the impending sale when he saw it on the Planning Commission agenda. Mr. Faux asked if he had talked with Mr. Druffel regarding the property and he said that he had not. Mr. Washington stated that he now had the money and asked for the opportunity to purchase his portion in order to maintain his building.

Mr. Druffel passed out photographs to the Planning Commission members and stated that they showed unkempt weeds on Mr. Washington's property. He stated that he had spent a great deal of his time and money in order to purchase the property from the City and felt upset that the process had not yet been finalized. He said that he had paid the full purchase price months ago when Mr. Washington had not paid for his portion.

Mr. Schneider asked Mr. Druffel if the portion of property originally offered to Mr. Washington was integral to his business. Mr. Druffel responded that he had removed the wrought iron fence and planned to use the space as storage for stone. He further stated that if Mr. Washington had called him and asked to have access to perform maintenance on his building he would have accommodated the request. He stated that the Walnut Hills Community Council was supportive of his plans.

Ms. Kathy Atkinson, representing the Walnut Hills Community Council, stated that they had been working with Mr. Druffel for approximately three years. She stated that Mr. Druffel's expansion plans began prior to the new Zoning Code and described the convoluted and lengthy process that he had to go through to carry out the project. She further stated that the Community Council supported the expansion of his business.

Mr. Faux asked how SORTA was using the property adjacent to Lindsay Alley. Ms. Atkinson responded that the property was vacant and used as a buffer zone to the interstate.

Mr. Faux stated that it was obvious to him that the relationship between Mr. Druffel and Mr. Washington was strained. He said that he also felt that Mr. Washington needed access to maintain his building. Ms. Atkinson agreed and suggested that possibly an easement could be arranged to allow access for maintenance. Mr. Druffel stated that he would be agreeable to an easement arrangement.

Mr. Tarbell stated that the surrounding neighborhood was clearly blighted and residents and business owners were working to improve the situation. He said that he felt that the Planning Commission had an obligation to acknowledge the improvement. He added that if the property owner was willing to provide an easement that he would support the staff recommendations.

Mr. Schneider asked if the maintenance easement would be recorded prior to the sale of the property. Ms. Julia Carney, of the Law Department, stated that it would have to be a private easement between the property owners. Mr. Steve Fagel, of the Law Department, stated that since Lindsay Alley was a street, the easement would have to be done simultaneously with the sale.

<b>Motion:</b>	Mr. Tarbell moved approval of Item #4, with the stipulation that Mr. Druffel records an easement to Mr. Washington for maintenance of his building.
<b>Second:</b>	Mr. vom Hofe
<b>Ayes:</b>	Mr. Faux, Mr. Tarbell, Mr. Stiles, Mr. vom Hofe and Mr. Schneider
<b>Nays:</b>	None, <b>motion carried</b>

*Items #5 and #6 were heard simultaneously.*

**ITEM #5** A report and recommendation on an ordinance authorizing the City Manager to enter into and execute an Agreement of Lease with Norton Outdoor Advertising, Inc. for various real property sites located in the City of Cincinnati for the operation of outdoor advertising signs.

*Mr. Steve Briggs, Senior Planner presented this item.*

**BACKGROUND:**

Over the last few years the City administration discovered a number of billboard leases that were either assumed with the purchase of property, expired and rent was being collected based upon old lease rates or billboards thought to be on private property that were actually resting in part or whole on City property or within the public right-of-way. The City entered into negotiations with the billboard owners to update and revise rent payments. Additionally, the City is demanding the payment of rent or the removal of the billboards. This agreement represents the results of its negotiations with Norton Outdoor Advertising, Inc. who will pay the City Seventeen Thousand One Hundred Thirty Five and 00/100 Dollars (\$17,135.00) annually for the lease of seven sign locations. The City is willing to lease the properties for ten years with an initial term of five years.

Each of the outdoor advertising signs subject to the lease agreement were erected and have been in use prior to our current zoning code enactment date of February 13, 2004 and are grandfathered as either an existing permitted use or existing nonconforming use.

The Cincinnati Zoning Code Chapter 1427 Sign Regulations states in Section 1417-01, Purposes:

*Signs that do not pertain to a business, activity and use that takes place on the same premises as where the sign is located are regulated by Chapter 895, Outdoor Advertising Signs, of the Cincinnati Municipal Code and by the applicable zoning district regulations of the Cincinnati Zoning Code.*

Furthermore, Section 1427-17, Off-Site Signs states:

Off-Site Signs are permitted only in the CC-M, CC-A, CG-A, MG and ME zoning districts and must be displayed in compliance with Chapter 895, Outdoor Advertising Signs, of the Municipal Code.

The following outdoor advertising signs subject to the lease agreement are an existing nonconforming use in their current zone district. In the previous zoning code, pre-2004, Off-Site Signs were defined as advertising signs that included billboard signs.

- Sign located at HCAP Book 63, Page 3, Parcel 234, in the neighborhood of Walnut Hills near the E. McMillan Street and Chatham Street intersection is within a CC-P District and is a nonconforming use. The previous zoning was B-4

General Business District that allowed advertising signs [billboards] as a permitted commercial use.

- Sign located at HCAP Book 167, Page 3, Parcel 56 in the neighborhood of Saylor Park is with a RF-C District on City owned property within the River Road right-of-way and is a nonconforming use. The previous zoning, before 2004, was R-4 Multi-Family Low Density.
- Sign located at HCAP Book 94, Page 8, Parcel 49 in the neighborhood of Over-The-Rhine, near the intersection of W. Liberty Street and Race Street is within a RM-1.2 District and is a nonconforming use. The previous zoning, before 2004, was B-4 General Business District that allowed advertising signs [billboards] as a permitted commercial use.

### **RECOMMENDATION**

The staff of the Department of Community Development and Planning recommended that the City Planning Commission take the following action:

Approve an Agreement of Lease with Norton Outdoor Advertising, Inc. for various real property sites located in the City of Cincinnati for the operation of outdoor advertising signs.

**ITEM #6** A report and recommendation on an ordinance authorizing the City Manager to enter into and execute an Agreement of Lease with the Lamar Advantage GP Company for various real property sites located in the City of Cincinnati for the operation of outdoor advertising signs.

*Mr. Steve Briggs, Senior Planner presented this item.*

### **BACKGROUND:**

Over the last few years the City administration discovered a number of billboard leases that were either assumed with the purchase of property, expired and rent was being collected based upon old lease rates or billboards thought to be on private property that were actually resting in part or whole on City property or within the public right-of-way. The City entered into negotiations with the billboard owners to update and revise rent payments. Additionally, the City is demanding the payment of rent or the removal of the billboards. This agreement represents the results of its negotiations with Lamar Advantage GP Company who will pay the City Sixty-One Thousand, Five Hundred and 00/100 Dollars (\$61,500.00) annually for the lease of fifteen sign locations. The City is willing to lease the properties for ten years with an initial term of five years.

Each of the outdoor advertising signs subject to the lease agreement were erected and have been in use prior to our current zoning code enactment date of February 13, 2004 and are grandfathered as either an existing permitted use or existing nonconforming use.

The Cincinnati Zoning Code Chapter 1427 Sign Regulations states in Section 1417-01, Purposes:

*Signs that do not pertain to a business, activity and use that takes place on the same premises as where the sign is located are regulated by Chapter 895, Outdoor Advertising Signs, of the Cincinnati Municipal Code and by the applicable zoning district regulations of the Cincinnati Zoning Code.*

Furthermore, Section 1427-17, Off-Site Signs states:

Off-Site Signs are permitted only in the CC-M, CC-A, CG-A, MG and ME zoning districts and must be displayed in compliance with Chapter 895, Outdoor Advertising Signs, of the Municipal Code.

The following outdoor advertising signs subject to the lease agreement are an existing nonconforming use in their current zone district. In the previous zoning code, pre-2004, Off-Site Signs were defined as advertising signs that included billboard signs.

- Sign located at HCAP Book 15, Page 2, Parcel 56 in the neighborhood of Linwood near the Beechmont Circle and Beechmont Avenue intersection is within a ML, Manufacturing Limited District and is a nonconforming use. The previous zoning was M-2 Intermediate Manufacturing that allowed advertising signs [billboards] as a permitted commercial use.
- Sign located at HCAP Book 65, Page 1, Parcel 82 in the neighborhood of Walnut Hills near the intersection of E. Martin Luther King, Jr. Drive and Fredonia Avenue is within a ML, Manufacturing Limited District and is a nonconforming use. The previous zoning was M-2 Intermediate Manufacturing that allowed advertising signs [billboards] as a permitted commercial use.

### **RECOMMENDATION**

The staff of the Department of Community Development and Planning recommended that the City Planning Commission take the following action:

Approve an Agreement of Lease with Lamar Advantage GP Company for various real property sites located in the City of Cincinnati for the operation of outdoor advertising signs.

### **DISCUSSION**

Mr. Briggs gave a brief overview of the staff reports and pointed out the supplemental photographs. He also stated that the Commissioners had received a copy of a motion passed by City Council on June 4, 2007, that allocated the money from the billboard leases to a safe and clean fund. He stated that Mr. Steve Fagel of the Law Department was present to answer any questions. Mr. Schneider asked if representatives from the billboard companies were present and Mr. Briggs said they were not.

Mr. Faux asked if property was needed for road construction, could the billboard leases be terminated without cost to the City. Mr. Fagel stated that within the lease each individual site could be terminated as needed.

Mr. Schneider stated that recently the Planning Commission saw a presentation of the Public View Shed report. He asked if it would be possible to screen the individual billboard locations against the Public View Sheds report and any applicable neighborhood plans. The billboards could have an effect on the views that we are trying to protect. He stated that he appreciated receiving the additional photographs but they were out of context and made it impossible to determine the impact on views and neighborhoods. Mr. Briggs explained that some of the billboards pre-dated certain neighborhood plans. In theory, the billboards could be within those areas. Staff would have to do a study to determine locations and affect, which would take some time.

Mr. Schneider asked if certain billboards could be removed from the lease. Mr. Stiles stated that the leases contained all of the billboards and would have to be renegotiated if some were removed. Mr. Fagel added that the once the leases were in effect, the City may terminate a specific site if the property was needed for a public purpose with a 180-day prior notice. Mr. Faux stated that the public purpose was whatever the City deemed, within reason.

Mr. Schneider said that he was concerned that a billboard could be blight on private property. He asked if staff could screen the billboards to make individual determinations regarding the impact on surrounding properties. Ms. Wuerstle stated it could be done.

Council Member Berding stated that the chairman invited him to attend the Planning Commission to answer questions regarding the matter. He stated that the entire billboard matter had been scrutinized by the City Council. He mentioned that recently Council had passed an ordinance further limiting where billboards could be located within the City. He stated that the Economic Development Committee had the item on the calendar for over a year. The Committee members debated the issue and heard a copious amount of testimony from residents, Community Councils and others. He stated that the leases appeared on the calendar at approximately the same time as the billboard legislation. He stated that he then asked that the billboard leases be held from the Planning Commission until the billboard legislation was completed. In addition, he stated that he felt that the lease prices, originally negotiated through a third party, seemed low. The administration was asked to meet with the billboard companies and renegotiate the price. He stated that the Economic Committee and the Council did not hear any testimony regarding negative impacts to neighborhoods or property owners. Once the billboard legislation was passed, the Council passed the Clean and Safe Fund Ordinance that would put the money from the billboard leases back into the neighborhoods. He asked that the Planning Commission approve the billboard leases.



Mr. Schneider asked Mr. Berding if the Council Members were comfortable with the locations of the billboards. Mr. Berding stated that the leases were temporary and the Council members had no opposition to any of the locations and hoped that they would go forward.

Mr. vom Hofe asked why some of the billboards were non-comforming uses. Ms. Carney responded that some of the billboards became non-comforming when the Zoning Code was rewritten in 2004 and were grandfathered in.

**Motion:** Mr. Schneider moved approval of Items #5 and #6  
**Second:** Mr. Tarbell  
**Ayes:** Mr. Faux, Mr. Tarbell, Mr. Stiles, Mr. vom Hofe and Mr. Schneider  
**Nays:** None, **motion carried**

**ITEM #7** A report and recommendation on graphics for the approved text amendment for §1421-21. Front Yard Modifications for the Cincinnati Zoning Code.

*Ms. Margaret Wuerstle, Chief Planner presented this item.*

**PURPOSE:**

To have the Planning Commission approve the final graphics for the Front Yard Modifications text amendment that was approved on June 1, 2007

**TEXT AMENDMENT:**

The Planning Commission approved the following text amendment on June 1, 2007. However the final graphics for this text amendment were not available at that meeting. Staff requested that the Planning Commission approve the graphics for the Zoning Code.

**§ 1421-21. Front Yard Modifications.**

The front yard requirements specified for principal buildings *in residential districts* may be modified subject to the following:

- (a) **Required Front Yard.** Principal buildings must have a minimum front yard that:
  - (1) If abutted on both sides by the improved lots whose front yards do not conform with the district regulations, equals the average depth of those abutting front yards; or
  - (2) If abutted on one side by an unimproved lot or a side street of a corner lot and on the other side by an improved lot whose front yard does not conform to the district regulations, equals the average of the depth of the front yard of the improved lot and the front yard setback requirement of the district; or

- (3) If abutted on both sides by improved lots, excluding panhandle lots whose front yard depth exceeds the required front yard setback, the required front yard depth shall be equal to the average depth of those abutting front yards; or
- (4) If abutted on one side by an unimproved lot and on the other side by an improved lot whose front yard depth exceeds the required front yard setback, the required front yard depth shall equal the depth of the improved lot.

### **RECOMMENDATION:**

The staff of the Department of Community Development and Planning recommended that the City Planning Commission take the following action:

Approve the graphics for the above text amendment.

### **DISCUSSION**

Ms. Wuerstle gave a brief overview of her staff report and explained that the original graphic attached to the original text amendment that the Planning Commission approved on June 1, 2007 had some issues and needed to be corrected.

**Motion:** Mr. vom Hofe moved approval of Item #7  
**Second:** Mr. Tarbell  
**Ayes:** Mr. Faux, Mr. Tarbell, Mr. Stiles, Mr. vom Hofe and Mr. Schneider  
**Nays:** None, **motion carried**

**ITEM #8** A report and recommendation on a proposed text amendment for Chapter §1413. Manufacturing District of the Cincinnati Zoning Code.

*Mr. Rodney Ringer, Senior Planner presented this item.*

**PURPOSE:** To obtain input and direction from the City Planning Commission (CPC) on zoning text amendments to the Manufacturing District of the Cincinnati Zone Code.

### **BACKGROUND:**

On January 13, 2004 City Council passed a motion during the adoption of the Cincinnati Zoning Code directing staff of the City Planning Division to conduct a zoning study for the Community of Winton Place. On January 19, 2005 staff met for the first time with volunteers of the "Winton Place Land Use Committee (WPLUC)". Meetings were conducted for several months (January-June 2005) to discuss various issues concerning the proposed study area and to gather information. During this time staff presented the existing conditions of the study area as well as possible alternatives that would help the neighborhood in their request to preserve this area. The issues were complex and required

a great deal of consensus building in order to fix the original stated concerns. Staff also informed the WPLUC that the project area was actually in Winton Hills, but was encouraged to continue the study, because the affected property owners were in favor of the proposed changes. In addition, at that time Winton Hills had no formal Community Council in place to assist the property owners with their concerns and so they turned to the Winton Place Community Council.

In January 2006, discussions were resumed with the WPLUC presenting recommendations for the study area. The WPLUC has submitted several versions of their recommendations for staff to review. On May 25, 2006 another public meeting was held by the Winton Place Land Use Committee (WPLUC) at the Gray Road Church of Christ to review the proposed study area and proposed text of the “MA” Manufacturing Agricultural District, and to gather feedback from the surrounding property owners.

Additional changes requested by the committee were made (June 20, 2006) and submitted to them on July 7, 2006. The committee returned the final draft to the Department of Community Development and Planning on September 26, 2006 with additional changes. The final version of the proposed “MA” Manufacturing Agricultural District was presented at an official Public Staff Conference held by the City of Cincinnati on November 30, 2006. During this time the neighborhood of Winton Hills was in the process of revitalizing their community council with help from Invest In Neighborhood. Elections were held in March 2007. The Winton Hills Community Council was also engaged in discussions with the Gray Road Land Fill property owners who desired to rezone their property as a PD. Concerns were raised from the Winton Hills representatives that they had not been involved in the creation of the proposed “MA” District.

Staff was directed by Councilwoman Cole to conduct another public meeting on December 18, 2006 with the WPLUC, members of Winton Hills as well as other surrounding property owners regarding the proposed zoning district, because the proposed project area is located in the neighborhood of Winton Hills. An additional follow-up meeting was held by the WPLUC on February 8, 2007 to discuss unresolved issues regarding the proposed “MA” District with representatives from the Community of Winton Hills. At the conclusion of the meeting both sides were still deadlocked on the use of the Gray Road Land Fill site, but were open to continuing discussions concerning the creation of the proposed “MA” District on other properties within the study area.

### **Modifications:**

On June 15, 2007 staff presented a staff report to the CPC regarding the proposed “MA” District as outlined in this document, and was asked to review and recommend changes to several items listed in the proposed “MA” District regulations. Those changes have been made and are underlined below.

- 1. ~~NM Neighborhood Manufacturing.~~ Light industry is defined as a range of low impact manufacturing and supporting commercial uses. Low impact means industry that does not pose a nuisance to adjoining property by reason of odor,**

~~noise, litter, lighting, runoff, hours of operation, traffic, underground seepage or unsightly conditions or other conditions that compromise the quality of living or damage agriculture such as exhaust containing heavy metals or smoke, and other proven health hazards. The allowed industrial uses would occur within an enclosed building unless otherwise indicated. Some outdoor storage would also be allowed on site associated with the principal business. Supporting commercial uses in this context would mean that limited retailing associated with the manufacturer on site is allowed as an accessory use.~~

- (a) MA Manufacturing Agricultural. To create, preserve and enhance areas that are appropriate for agricultural, farming, low impact manufacturing and supporting commercial uses. Low impact manufacturing and supporting commercial uses may be permitted provided they meet specific performance standards and are buffered from residential uses. Single-family residential is also encouraged in the district.

**Justification:** The original language was changed because the purpose statement should not contained definitions and regulations. The new language was written to be consistent with the purpose statements of the existing districts. Staff feels that this additional language emphasizes that manufacturing uses and supporting Commercial uses must be compatible with the residential uses, which is what the neighborhood was trying to stress in the original language.

2. ~~§ 1401-01-C7. Commercial Greenhouses.~~

*~~“Commercial Greenhouses” means a facility where young plants are propagated and grown until they are ready for permanent planting or for sale and a building of glass or in plastic tunnels, designed to protect young plants from harsh weather, while allowing access to light and ventilation.~~*

*~~Justification: The “Commercial Greenhouse” definition was removed because it’s a permitted use under the “Farming” use classification. Staff also researched other cities in an effort to better define the “Commercial Greenhouse” definition. However, we found that other definitions were very similar to our existing “Garden supply and nursery” definition.~~*

- **§ 1401-01-F4. Farm Stand.**

“Farm Stand” means a building, other structure or open area used for retail sales of fresh fruits, vegetables, flowers, herbs, plants and other agricultural products.

**Justification:** The “Farm Stand” definition was added to address the CPC’s concern regarding the future use of the existing nurseries/greenhouses on Gray Road, in case the existing agricultural uses decide to not produce agricultural products. This use was added to the MA district as both a permitted principle use with the limitations occupying no more than 500 square feet and as an accessory use permitted with certain limitation that the Farm Stand occupy no more than 500 square feet.

- **§ 1401-01-G. Garden Supply Store and Nursery.**

“Garden supply store” and “nursery” means an establishment primarily engaged in the retail sale of garden supplies and plants grown on the premises or elsewhere. This classification includes the sale of landscape materials, topsoil and rental of landscaping equipment.

**Justification:** Staff altered the existing “Garden Supply Store and Nursery” definition by including the word *primarily* to ensure that the definition is not misinterpreted as a use that allows big-box retail facilities that primarily sell other items with only a small portion of there operations devoted to the sale of garden supply and plants. The amended Garden Supply and Nursery establishments are now permitted in the MA district with the limitation that it occupy no more than 5,000 square feet. The big-box retail store such as a Home Depot or a Lowes would be regulated as “retail sales” and not as Garden Supply and Nurseries.

- **Schedule 1447-11 Substitution Rights for a Nonconforming Use**

Location of Nonconforming Use	Substitution Rights	Location of Nonconforming Use	Substitution Rights	Location of Nonconforming Use	Substitution Rights
SF-20	None <sup>1</sup>	RM0.7	OL	CGA	ML
SF-10	None <sup>1</sup>	OL	OG	DD	None
				<u>MA</u>	<del>RMX</del> <u>SF-10</u>
SF-6	None <sup>1</sup>	OG	CN-P, CN-M	ML	MG
SF-4	None <sup>1</sup>	CN-P	CN-M	MG	None
SF-2	None <sup>1</sup>	CN-M	CC-P	RF-R	RF-C
RMX	RM0.7	CC-P	CC-M	RF-C	RF-M
RM-2.0	RM0.7	CC-M	CC-A	RF-M	None
RM-1.2	OL	CC-A	CG-A	I-R	None
UM	ML				

**Justification:** Staff changed the substitution rights for the MA district from RMX to SF-10 as requested by the neighborhood. This will ensure that the SF-10 density is consistent with the objective of the new district. If one, two & three family units were allowed by using the RMX district, as a substitution right the density would be far greater than otherwise allowed in the district.

**ISSUES:**

The WPLUC would like to create a new zoning district that melds the current uses of clean light industry, SF-20 style residential housing and agriculture currently existing between the Gray Road and Winton Road corridor. The objective is to create a district that would be reflective of the unique agriculture and light industry uses that exist within this area. The study area boundaries are Gray Road Land Fill to the North, the intersection of Gray Road/Winton Road to the South, Winton Ridge Lane to the East, and Gray Road to the West. The proposed “MA” Neighborhood Manufacturing District eliminates the majority of commercial uses (except for food preparation, loft dwelling

units, maintenance and repair services, offices and personal instructional services) currently allowed in the existing ML Manufacturing District. It also encourages a variety of agricultural uses such as livestock farming, fruit & vegetable farming, nurseries and greenhouses that are currently not indicated under the ML or MG Districts.



Figure 1: Property along Gray Road.  
Greenhouse on Gray Rd.



Figure 2: Nursery/  
Greenhouse on Gray Rd.

The Winton Hills Community Council has stressed a desire to work with the Winton Place Land Use Committee (WPLUC) on their proposal. However the Winton Hills would like to see the Gray Road Landfill site developed as a commercial/ office development. This goes against one of the primary concerns of the WPLUC, which is their desire not to see any commercial uses along Winton and Gray Road. The WPLUC believes that these types of uses will disturb the character of the area and bring additional traffic along Winton Road and Gray Road. Winton Hills however, believes that the development would be a great opportunity for the neighborhood to improve its image and provide needed job opportunities. The Gray Road Land fill property is 81 acres and is the single largest site in the project area. The site is currently under contract with the Vandercar Company and is currently zoned ML Manufacturing Light.



Figure 3: View of the Gray Road Land Fill site from Gray Road.

The big box commercial project under consideration by the Vandercar Company would not be permitted in ML District and would require a zone change on the property. The Gray Road Land Fill also would not be a permitted use under the proposed regulations of

the “MA” District. The Gray Road Land Fill site would require a zone change whether the new “MA” District is created or not. The creation of the proposed “MA” District does not ensure the future of the Gray Road Land Fill property but it does create a base district for the WPLUC that will help guide development on the properties in the study area.

#### **COMMUNITY RESPONSE:**

Twenty-eight property owners in the vicinity of the proposed site attended the November 30, 2006 and December 18, 2006 public staff hearings. Most of them expressed their support for the proposed zone change while others had concerns and questions regarding the need for the proposed district. The staff also received letters following the November 30, 2006 meeting from the Winton Hills representatives as well as the Gray Road Fill, Inc. stressing their disapproval for the proposed “MA” Zoning District. Staff also received an email from the owner of the Cincinnati Coin Laundry Company requesting that his business not to be included in the zoning study. However, the current use of the Cincinnati Coin Laundry Company will continue to be a permitted use in the proposed “MA” District, and thus should remain in the study. This will assure that the overall use of the proposed “MA” District will not be affected by any potential undesired uses allowed in the existing ML District.

#### **CONCLUSIONS:**

1. The property within the study area is currently zoned SF-20 Single-family District, SF-6 Single-family District, RM-2.0 Residential-Mixed District and ML Manufacturing Limited District.
2. The Winton Place Land Use Committee (WPLUC) would like to create a new zoning district that melds the current uses of clean light industry, SF-20 style residential housing and agriculture that exist between the Gray Road and Winton Road corridor.
3. There’s a potential development within the study area that consist of 81 acres currently under contract with a developer for a proposed commercial/office development.
4. The Winton Hills Community Council differs with Winton Place Land Use Committee regarding the use of the Gray Road Landfill site.
5. The WPLUC is against any commercial uses along Winton and Gray Roads.
6. There is support from most of the property owners in the study area.
7. The study area is a unique area of the City consisting of many large parcels of land supporting light manufacturing, residential and agricultural uses. The neighborhood has a very rural character that is not commonly found within the boundaries of cities the size of Cincinnati. This unique rural area of the

neighborhood contributes to the housing and lifestyle mix available to Cincinnati residents and therefore, is worth preserving.

8. Although there maybe no other areas within the City where the proposed “MA” District could be appropriately located, the benefits of preserving the environment and character of this neighborhood far outweigh any detriments of creating a new zoning district.
9. The new “MA” District would promote the economic stability of existing land uses and protect them from intrusion by unharmonious or harmful land uses.
10. Protection of farmland preserves non-market benefits. These rural amenities include.
  - Environmental Amenities
    - Open space
    - Soil conservation
    - Wildlife habitat
    - Recreational opportunities
    - Scenic vistas
    - Isolation from congestion
    - Watershed protection
    - Flood control
    - Groundwater recharge
  - Rural Development Amenities
    - Rural income and employment
    - Viable rural communities
    - Diversified local economy
  - Social Amenities
    - Maintaining traditional country life
    - Maintaining a small farm structure
    - Maintaining cultural heritage
11. The irreversible loss of farmland from intrusion of unharmonious land uses will erode the environment, rural development and social amenities currently available in this neighborhood of the City.

### **RECOMMENDATIONS:**

The staff of the Department of Community Development and Planning recommended that:

1. The City Planning Commission approve the creation of the new “MA” Manufacturing Agricultural District.
2. The CPC approve placement of the new “MA” District on the proposed area, which would rezone this area from ML Manufacturing Limited District and SF-20 Single-family District to “MA” Manufacturing Agricultural in the Community of Winton Hills.



## THE MA MANUFACTURING AGRICULTURAL ZONING DISTRICT

### Chapter 1413. Manufacturing Districts.

#### 1413-01. Purposes.

The general purposes of manufacturing districts are to:

- (a) Promote and preserve manufacturing areas as significant employment generators.
- (b) Facilitate the necessary infrastructure to accommodate a wide variety of transportation, manufacturing and technology uses.
- (c) Accommodate existing traditional industries, while anticipating new technologies and business service uses.
- (d) Preserve appropriate location of industries that may have the potential to generate off-site impacts, while providing compatibility in use and form.
- (e) Establish appropriate standards for reviewing proposals for new development and redevelopment, where appropriate, in manufacturing areas.
- (f) Ensure the provision of services and facilities needed to facilitate planned employment densities.

#### 1413-03. Specific Purposes of the Manufacturing Subdistricts.

The specific purposes of the manufacturing subdistricts are:

- (a) **MA Manufacturing Agricultural.** To create, preserve and enhance areas that are appropriate for agricultural, farming, low impact manufacturing and supporting commercial uses. Low impact manufacturing and supporting commercial uses maybe permitted provided they meet specific performance standards and are buffered from residential uses. Single-family residential is also encouraged in the district.
- (b) **ML Manufacturing Limited.** To create, preserve and enhance areas that are appropriate for a range of low-impact manufacturing activities and supporting commercial uses. High-impact manufacturing uses may be permitted, provided they meet specific performance standards and are buffered from residential areas. Loft dwelling units may be permitted in this district and any commercial uses should be located along major transportation corridors.
- (c) **MG Manufacturing General.** To create, preserve and enhance areas that are appropriate for a wide variety of supporting and related commercial and manufacturing establishments that may have the potential to generate off-site impacts. Future development will accommodate heavy industrial and manufacturing uses, transportation facilities, warehousing and distribution and

similar and related supporting uses. These uses typically require sites with good transportation access. Uses that may inhibit industrial development are prohibited.

- (d) ME Manufacturing Exclusive.** To recognize and preserve areas that are intended exclusively for the location of manufacturing establishments. Future development will accommodate heavy industrial and manufacturing uses. These uses typically require sites with good transportation access. Uses that may inhibit or compete with industrial development are prohibited.

#### **Schedule 1413-05: Use Regulations – Manufacturing Districts**

Use Classifications	<i>MA</i>	ML	MG	ME	Additional Regulations
<b><i>Residential Uses</i></b>					
Child day care home	L9	L9	--	--	
Group residential					
Convents and monasteries	--	L1	--	--	
Fraternities and sororities	--	L1	--	--	
Patient family homes	--	L1	--	--	
Rooming houses	--	L1	--	--	
<b><i>Shared Housing for the Elderly</i></b>	P	L1	--	--	
Permanent residential					
Single-family dwelling	P	L1	--	--	
Attached single-family dwelling	P	L1	--	--	<b><i>See § 1403-13</i></b>
Two-family dwelling	--	L1	--	--	
Multi-family dwelling	--	L1	--	--	
Residential care facilities					
Developmental disability dwelling	P	P	--	--	
Special assistance shelter	--	C	--	--	
Transitional housing					
Programs 1 - 4	--	P	P	--	
Programs 5, 6	--	--	P	--	
<b><i>Public and Semipublic Uses</i></b>					
Community service facilities	P	P	--	--	
Day care center	P	P	L3	--	
Government facilities and offices					
Correctional Institutions	--	--	C	--	
Facilities and installations	--	--	C	--	
Juvenile detention facilities	--	--	C	--	
Offices	P	P	P	--	
Park and recreation facilities	P	P	--	--	
Public maintenance facilities	--	P	P	--	
Public safety facilities	C	P	P	P	
Religious assembly	P	P	--	--	
Schools, public or private	P	P	--	--	
<b><i>Commercial Uses</i></b>					
Ambulance services	--	P	P	--	

Use Classifications	MA	ML	MG	ME	Additional Regulations
Animal services	--	P	P	--	
Banks and financial institutions	--	P	P	--	
Building maintenance services	--	P	P	--	
Building materials sales and services	--	P	P	P	
Business services	--	P	P	--	
Eating and drinking establishments					
Drinking establishments	--	P	P	--	
Restaurants, full service	--	P	P	--	See § 1419-21
Restaurants, limited	--	P	P	--	See § 1419-21
Food markets	--	L5	L5	--	
Food preparation	P	P	P	--	
<b>Garden supply stores and nurseries</b>		P	--	--	
Laboratories, commercial	--	P	P	--	
Loft dwelling units	P	P	P	--	See § 1419-23
Maintenance and repair services	P	P	P	--	
Medical services and clinics	--	P	P	--	
Offices	P	P	P	P	
Parking facilities	--	P	P	C	See Chapter 1425
Personal instructional services	P	P	P	--	
Personal services	--	L5	L5	--	
Private vehicular storage lot	--	--	P	--	
Recreation and entertainment					
Indoor or small-scale	--	P	P	--	
Outdoor or large-scale	--	C	--	--	
Retail sales	--	L5	L5	--	
Sexually oriented business	--	--	P	--	See § 1419-25
Vehicle and equipment services					
Vehicle and equipment sales and rental	--	L2	L2	--	
Car wash	--	L3	P	--	See § 1419-11
Fuel sales	--	L3	P	--	See § 1419-15
Vehicle repair	--	--	P	--	See § 1419-27
Automobile holding facility	--	--	L4	--	
<b>Industrial Uses</b>					
Production industry					
Artisan	P	P	P	P	
General	--	--	P	P	
Intensive high-impact	--	--	C	C	See § 1419-19
Limited	P	P	P	P	
Research and development	P	P	P	--	
Warehousing and storage					
Contractor's storage	--	C	P	--	
Indoor storage	--	P	P	--	

Use Classifications	MA	ML	MG	ME	Additional Regulations
Oil and gas storage	--	--	C	C	
Outdoor storage	--	--	C	C	
Metal waste salvage yard/junk yards	--	--	C	C	
Waste management					
Waste collection	--	P	P	P	See § 1419-31
Waste disposal	--	--	C	C	
Waste transfer	--	--	C	C	See § 1419-31
Wholesaling and distribution	P	P	P	P	
<b>Transportation, Communication and Utilities</b>					
Communications facilities	P	P	P	--	
Public utility distribution system	--	P	P	P	
Public utility maintenance yard	--	P	P	P	
Public utility plant	--	C	P	P	
Radio and television broadcast antenna	--	P	P	--	
Transportation facilities					
Airports	--	L6	--	--	
Heliports	--	L6	L6	L6	
Railroad train yards	--	L7	L7	L7	
Railroad right-of-way	--	P	P	P	
Transportation passenger terminals	--	P	P	P	
Truck terminal and warehouse	--	--	L7	L7	
Wireless communication antenna	L13	L8	L8	L8	
Wireless communication tower	--	C	C	C	
<b>Agriculture and Extractive Uses</b>					
<b>Farming</b>	<b>P</b>	--	--	--	<b>See § 1419-38</b>
Mining and quarrying	--	--	C	C	
<b>Commercial Greenhouses</b>	<b>P</b>	--	--	--	
<b>Farm Stand</b>	<b>L18</b>	--	--	--	
<b>Accessory Uses</b>					
Any accessory use not listed below	L10	L10	L10	L10	See Chapter 1421
Refuse storage area	L12	L12	L12	L12	See § 1421-35
Drive box	L11	L11	L11	L11	
Commercial vehicle parking	L14	P	P	P	
Exterior lighting	P	P	P	P	See § 1421-39
<b>Composting Facilities</b>	<b>P</b>	--	--	--	<b>See § 1421-37</b>
<b>Home occupation</b>	<b>P</b>	--	--	--	<b>See § 1419-17</b>
<b>Rooming unit</b>	<b>L15</b>	--	--	--	
<b>Retailing Retail Sales</b>	<b>L16</b>	--	--	--	
<b>Farm Stand</b>	<b>L18</b>	--	--	--	
<b>Nonconforming Uses</b>					
					See Chapter

Use Classifications	MA	ML	MG	ME	Additional Regulations
					1447

### ***Specific Limitations***

- |  |  |
|--|--|
| <p>L1 New residential is permitted only when abutting an existing residential use or structure.</p>  | <p>L2 Permitted on arterial street only. Vehicle loading and unloading must occur on-site.</p>   |
| <p>L3 Permitted only as an accessory use to a use allowed in the district.</p>   | <p>L4 The facility must be completely enclosed on all sides with a six foot screen fence which is protected from damage by a guardrail or other barriers approved by the Director of Buildings and Inspections. Must be located at least 100 feet from a residential district.</p> |
| <p>L5 Permitted only if occupying less than 5,000 sq. ft. in ML and 10,000 sq. ft. in MG.</p>  | <p>L6 Landing strip, pad, or apron may not be located within 500 ft. of a residential district boundary.</p>   |
| <p>L7 Not allowed within 250 ft. of a residential use in a Residential District.</p>   | <p>L8 Antenna height may not exceed 20 feet; greater height requires a conditional use approval. The antenna may be attached to a multi-family, public or semi-public, public utility, a commercial or industrial building or structure.</p>                                       |
| <p>L9 Fencing a minimum of four feet in height must be provided for purposes of securing outdoor play areas which must be located in the rear yard only.</p> | <p>L10 Accessory uses determined by the Director of Buildings and Inspections to be customarily incidental to a use of the district are permitted. All others require conditional use approval.</p>  |

## Specific Limitations

**L11** The storage space is less than 30 cubic yards; enclosed by a screen fence or within a structure; and at least 100 feet from any property used for residential purposes.

**L13** Antenna height may not exceed 20 feet; greater height requires a conditional use approval. The antenna may be attached to an agricultural, public or semi-public or public utility building or structure.

**L15** No more than two rooming units may be rented or leased in a single-family dwelling.

**L17** Permitted only if occupying no more than 5,000 sq. ft.

**L18** Permitted only if occupying no more than 500 sq. ft.

**L12** Provisions of § 1421-35 apply when refuse storage area is within 100 feet of any property used for residential purposes.

**L14** One commercial vehicle may be parked or stored on residential property with the following provisions:

- a. Commercial vehicles with current license owned by a resident of the residential property on which it is stored or parked may not exceed two tons in capacity.
- b. Recreational vehicles, watercraft and personal trailers may be parked on the lot beyond the front yard.

**L16** Retail Sales of products manufactured or wholesaled on the premises, when incidental and subordinate to a principal permitted use, provided that the floor area devoted to such retail sales shall not exceed 35 percent of the floor area devoted to such principal use, but in no case shall the retail floor area exceed 5,000 square feet.

## § 1413-07. Development Regulations.

Schedule 1413-07 below prescribes the development regulations for M Manufacturing Districts, including minimum lot area, maximum height, minimum yards and other standards. Additional standards are included in Chapter 1419.

### Schedule 1413-07: Development Regulations – Manufacturing Districts

Regulations	MA	ML	MG	ME	Additional Regulations
<b><i>Building Scale – Intensity of Use</i></b>					
Minimum Lot Area (sq. ft.)					
Residential Uses	20,000	4,000	--	--	
Non- residential Uses	20,000	0	0	0	
Land area for every dwelling unit		2,000	--	--	

Regulations	MA	ML	MG	ME	Additional Regulations
<b><i>Building Form and Location</i></b>					
Maximum Building Height (ft.)	35	45	85	85	
Minimum Yard (ft.)					
Front Residential	40	20	0	0	
Front Non-Residential	25	20	0	0	
Side Residential (minimum/total)	10/20	3/12	0	0	
Side Non-Residential (minimum/total)	10/20	10/20	0	0	
Rear Residential	35	25	0	0	
Rear Non-Residential	20	10	0	0	
<b><i>Vehicle Accommodation – Driveways and Parking</i></b>					
Driveway Restrictions	Yes	Yes	Yes	Yes	See § 1413-09
Parking Lot Landscaping	Yes	Yes	Yes	Yes	See § 1425-31
Truck Docks; Loading and Service Areas	Yes	Yes	Yes	Yes	See § 1413-11
<b><i>Other Regulations</i></b>					
Buffering Along District Boundaries	Yes	Yes	Yes	Yes	See § 1423-13

Accessory Uses and Structures	See Chapter 1421
General Site Standards	See Chapter 1421
Landscaping and Buffer Yards	See Chapter 1423
Nonconforming Uses and Structures	See Chapter 1447
Off-Street Parking and Loading	See Chapter 1425
Signs	See Chapter 1427
Additional Development Regulations	See Chapter 1419

## **NEW DEFINITION TO BE ADDED TO CHAPTER 1401-01.**

### **§ 1401-01-F3. Farming.**

“Farming “ means the raising of tree, vine, field, forage and other plant crops, as well as the keeping, grazing or feeding of animals and incidental processing, storage and retail sales facilities.

### **~~§ 1401-01-C7. Commercial Greenhouses.~~**

“Commercial Greenhouses” means a facility where young plants are propagated and grown until they are ready for permanent planting or for sale and a building of glass or in

plastic tunnels, designed to protect young plants from harsh weather, while allowing access to light and ventilation.

**§ 1401-01-G. Garden Supply Store and Nursery.**

“Garden supply store” and “nursery” means an establishment primarily engaged in the retail sale of garden supplies and plants grown on the premises or elsewhere. This classification includes the sale of landscape materials, topsoil and rental of landscaping equipment.

**§ 1401-01-F4. Farm Stand.**

“Farm Stand” means a building, other structure or open area used for retail sales of fresh fruits, vegetables, flowers, herbs, plants and other agricultural products.

**OTHER SECTIONS WHERE THE “MA” DISTRICT WILL APPLY**

**§ 1400-11. Establishment of Zoning Districts.**

For the purposes of the Cincinnati Zoning Code, the City of Cincinnati is divided into 22 zoning districts. These zoning districts are intended to:

- (b) ***Location and Use.*** Regulate and restrict the location and use of buildings and land for residence, commerce and trade, industry, transportation, communications and utilities and other purposes.
- (c) ***Dimensions.*** To regulate and restrict the height and size of buildings and structures hereafter erected or structurally altered, the size of yards, setbacks, other open spaces and the density of population.
- (d) ***Standards.*** To establish site development and design standards, subdivision standards and requirements for adequate public facilities and services.

Base zoning districts and chapter references are shown in Schedule 1400-11. References to classes of districts (SF, RM, C, DD, M, RF and IR) include all of the subdistricts.

**Schedule 1400-11: Establishment of Zoning Districts**

Base Districts and Chapter Reference	District
1403 Single-family Districts	Single-family (SF-20)
	Single-family (SF-10)
	Single-family (SF-6)
	Single-family (SF-4)
	Single-family (SF-2)
1405 Multi-family Districts	Residential Mixed (RMX)
	Residential Multi-family (RM-2.0)
	Residential Multi-family (RM-1.2)
	Residential Multi-family (RM-0.7)



Base Districts and Chapter Reference	District
1407 Office Districts	Office Limited (OL) Office General (OG)
1409 Commercial Districts	Commercial Neighborhood (CN) Commercial Community (CC) Commercial General (CG)
1411 Downtown Development District	Downtown Development (DD)
1413 Manufacturing Districts	<u>Manufacturing Agricultural (MA)</u> Manufacturing Limited (ML) Manufacturing General (MG) Manufacturing Exclusive (ME)
1415 Riverfront Districts	Riverfront Residential/Recreational (RF-R) Riverfront Commercial (RF-C) Riverfront Manufacturing (RF-M)
1417 Institutional-Residential Districts	Institutional-Residential (IR)

**§ 1400-15. District Hierarchy.**

The term "more restrictive" district applies to any district in the sequence set forth in Schedule 1400-15 that precedes any other district in Schedule 1400-15 and the term "less restrictive" applies to any district which succeeds any other district in Schedule 1400-15.

**Schedule 1400-15: District Hierarchy**

- (a) Single-family (SF-20)
- (b) Single-family (SF-10)
- (c) Single-family (SF-6)
- (d) Single-family (SF-4)
- (f) Single-family (SF-2)
- (g) Manufacturing Agricultural (MA)
- (h) Residential Mixed (RMX)
- (i) Residential Multi-family (RM-2.0)
- (j) Residential Multi-family (RM-1.2)
- (k) Residential Multi-family (RM-0.7)
- (l) Riverfront Residential/Recreational (RF-R)

- (m) Office Limited (OL)
- (n) Office General (OG)
- (o) Institutional-Residential (IR)
- (p) Commercial Neighborhood-Pedestrian (CN-P)
- (q) Commercial Community-Pedestrian (CC-P)
- (r) Commercial Neighborhood-Mixed (CN-M)
- (s) Downtown Development (DD)
- (t) Commercial Community-Mixed (CC-M)
- (u) Commercial Community-Auto Oriented (CC-A)
- (v) Urban Mixed (UM)
- (w) Manufacturing Limited (ML)
- (x) Commercial General-Auto Oriented (CG-A)
- (y) Manufacturing Exclusive (ME)
- (z) Riverfront Commercial (RF-C)
- (aa) Riverfront Manufacturing (RF-M)
- (bb) Manufacturing General (MG)

**§ 1403-13. Additional Development Regulations**

Cluster housing developments are permitted in all SF and RM Districts and the MA District subject to the following regulations:

- (a) **Uses.** The only permitted uses are attached and detached single-family dwellings.
- (b) **Ownership.** At the time of application, a cluster housing site may consist of more than one parcel, but all parcels must be contiguous and under single ownership.
- (c) **Division of Parcels.** The site may be further subdivided after approval of the cluster housing development, including the provision of interior streets.

- (d) **Buffer Yard.** A 25-foot-wide buffer yard is required along the perimeter of the development site. Structure, detention or retention areas, parking, driveways or accessory uses are not permitted within the buffer yard, except site access and a perimeter fence or wall. The buffer area may not be subdivided and must be under common ownership.
- (e) **Site Density.** The site density equals the underlying minimum lot area for each dwelling unit of the district in which the development is located. At the time of application, if the development is divided by a pre-existing public street or right of way, the density must be divided proportionally on each side of the street.
- (f) **Minimum Setback.** The minimum required setbacks of the zoning district do not apply to cluster housing development sites or individual buildings or structures on the development site.
- (g) **Maximum Height.** The maximum height requirements are the same as those set forth by the district in which the development is located.
- (h) **Frontage.** The cluster housing development site must have a minimum of 25 feet of frontage on a street. Individual lots within the development are not required to front on a street.
- (i) **Minimum Open Space.** Each cluster housing development must have a minimum of ten percent of the total development site as required open space, in addition to the required buffer yards. Open space excluded impervious surface areas such as buildings, paved areas and detention/retention areas.

#### Chapter 1419. Additional Development Regulations

##### **§ 1419-39. Farming.**

*Farming is permitted in the MA District subject to the following regulations:*

1. *A minimum of 20,000 feet of contiguous land under the same ownership with no more than one single-family dwelling on the property is required in order to use the property for farming purposes.*
2. *Buildings or structures for livestock must be setback a minimum 50 feet from each property line.*
3. *Buildings or structures for storage and greenhouses must be setback a minimum of 20 feet from each property line.*

##### **1421-33. Fence and Walls.**

All fences and walls must comply with the provisions of this section, any other applicable provisions of the Cincinnati Zoning Code, and any applicable provisions of the Municipal Code.

- (a) **General.** Fences and walls are permitted in all zoning districts and may be required for specific uses, as provided in Chapter 1419, Additional Development Regulations, or as buffering between certain uses, as provided in Chapter 1423, Landscaping and Buffer Yards.
- (b) **Maximum Height.** In any front or corner side yard the maximum height of any fence or wall may not exceed four feet in SF and RM Districts and six feet in all other districts and may not exceed an opacity of 50 percent. In any interior side or rear yard, the maximum height may not exceed six feet and may be 100 percent opaque.
- (c) **Entry Gateway.** An entry gateway, trellis or other entry structure may be permitted in the required front yard provided the maximum height and width do not exceed ten feet.
- (d) **Fence With Retaining Walls.** A combination wall or fence on top of a retaining wall may be erected. The retaining wall portion may be erected up to a level of the higher finished grade. The fence or wall portion must comply with the requirement of subsection (b) above.
- (e) **Driveway Visibility.** All fences are subject to the driveway visibility requirements of 1425-37.
- (f) **Electrical Fences and Razor Wire.** Electrical, barbed and razor wire fences are prohibited in SF, RM, O, DD and IR Districts and are an accessory conditional use in C, M and RF Districts. However, in the MA District solar 12 volt DC electrical (low voltage) ribbon fences are permitted for purposes of livestock, pasture and crop management.
- (g) **Decks and Railings.** Within the limits of a rear yard in a residential district, decks and railings for above ground swimming pools may be up to eight feet above grade and located at least three feet from all property lines.

#### **§ 1447-11. Substitution of a Nonconforming Use.**

The Zoning Hearing Examiner may allow the substitution of a nonconforming use for another nonconforming use permitted in another district as specified in Schedule 1447-11 - Substitution Rights for a Nonconforming Use. Whenever any nonconforming use is changed to a conforming use, such use may not later be changed to a use other than a conforming use.

### Schedule 1447-11 - Substitution Rights for a Nonconforming Use

Location of Nonconforming Use	Substitution Rights	Location of Nonconforming Use	Substitution Rights	Location of Nonconforming Use	Substitution Rights
SF-20	None <sup>1</sup>	RM0.7	OL	CGA	ML
SF-10	None <sup>1</sup>	OL	OG	DD	None
				<del>MA</del>	<del>RMX</del> <u>SF-10</u>
SF-6	None <sup>1</sup>	OG	CN-P, CN-M	ML	MG
SF-4	None <sup>1</sup>	CN-P	CN-M	MG	None
SF-2	None <sup>1</sup>	CN-M	CC-P	RF-R	RF-C
RMX	RM0.7	CC-P	CC-M	RF-C	RF-M
RM-2.0	RM0.7	CC-M	CC-A	RF-M	None
RM-1.2	OL	CC-A	CG-A	I-R	None
UM	ML				

<sup>1</sup>See § 1447-13

### **DISCUSSION**

Ms. Wuerstle explained that on June 15, 2007 staff presented a staff report to the City Planning Commission (CPC) regarding the proposed “MA” District. Ms. Wuerstle stated that the CPC asked staff to review and recommend changes to several items listed in the proposed “MA” District regulations and she gave a brief summary of the changes. She mentioned that definitions and regulations were not included in the purpose statement as the residents had wanted, but were covered in another way.

Mr. Ringer then gave a brief overview of the staff report and presented maps illustrating the proposed “MA” District.

Mr. vom Hofe asked if the new language allowed “big box” development. Mr. Ringer responded that garden supplies must be the primary use, which would exclude the larger stores that sell many other type of items.

Mr. Schneider asked if wholesale sales were allowed and Ms. Carney stated that it was a permitted use.

Mr. Gary Robbins, Winton Place Community Council member and Spring Grove Village resident stated that the need for a new district was raised when the new Zoning Code eliminated the M1 District. He provided a handout to the Planning Commission members and reviewed the four concerns he had with the current proposal. He asked that the matter be tabled to give residents additional time to review the new changes and work with staff. In response to Mr. Robbins concern regarding modifications, Ms. Wuerstle explained that the new language does not spell out each item that residents wanted in the purpose statement but that the purpose statement clearly states that new uses must be

compatible with the surrounding uses. There was no place in the code to put the specific language that the residents requested. The retail issue was something that the Planning Commission asked staff to put back in. If anything larger than 5000 square feet was requested a public hearing would be held.

Mr. David Rosenberg, stated that he felt that the current proposal was very close to what the residents want. He suggested that the Planning Commission table the item and give additional time to work with staff.

Mr. Faux stated that he felt that the matter has been fully discussed and should be acted upon. He stated that ultimately it was the City staff that writes ordinances, not neighborhoods or committees.

Mr. Rosenberg stated that he wanted the same protection for the neighborhood as the M1 District had provided. He said that the community had maintained a balance for over fifty years with residents and industry having equal standing. He stated that the residents do not want people to put up farm stands and asserted that they wanted a manufacturing district, not commercial. He said that the neighborhood is willing to take the time to meet with the business owners to make sure the District works for them. He stated that they just want to have a strong influence on how the language is written.

Mr. Schneider asked Ms. Wuerstle if she felt that there was additional information that would cause her to write the text amendment differently. Ms. Wuerstle stated that she did not think that was the case. She further said that the Planning Commission asked for one thing and the residents have asked for another. The current version was not exactly what the residents wanted but what the Planning Commission asked for. Mr. Schneider commented that he felt that it was not a matter of perfecting language but a difference in values.

Mr. Stiles stated that he felt that if the business owners were concerned they would have been here to speak. He added that he was not convinced that there was a great concern on behalf of the business owners.

Mr. Faux explained that at the last meeting, Mr. Mooney made the observation that currently the permitted operations were essentially nurseries that grow plant materials, fruits and vegetables and sell the product on site. He wanted to preserve the opportunity for those people to sell even if they were no longer growing at that particular location.

Mr. C. Francis Barrett, attorney representing Gray Roadfill, Inc., Mr. Roy Schweitzer and Mr. Steve Schweitzer, stated that he had no issue with the text amendment but with the application. He stated that in the future the landfill will close and the land will need to be redeveloped. None of the uses, which are allowed in the "MA" district, are reasonable, feasible or practical for the landfill property. He said he felt that a Planned Development (PD) designation would be most appropriate for the property. It could be light industrial uses, office uses or neighborhood retail. He pointed out the adjacent Winton Hills neighborhood and stated that they favored neighborhood retail. He distributed a letter to

the Planning Commission members and gave a brief overview of the letter. He stated that the past VanderCar option on the property had expired. He said that the redevelopment of this site would be in the best interest of the community. He requested that the Planning Commission remove the Gray Roadfill, Inc. property from the “MA” text amendment and allow it to remain an ML District.

Mr. vom Hofe asked if it would be possible to hold the item. Mr. Faux stated that they could table the matter but that he felt that the two diametrically opposed viewpoints would not be resolve. Ms. Wurstle agreed and stated that staff had been working on the item for two years. Mr. Tarbell stated that he did not support delaying the text amendment.

Mr. Barrett stated that the landfill site which is the largest tract included in the proposal has none of the characteristics of the other properties. The new district would limit marketability and would be basically a taking. Mr. Schneider stated that he did see Mr. Barrett’s point especially since the landfill would be closing in the near future.

Mr. vom Hofe asked if it would be possible to exclude the landfill property and still act on the matter. Mr. Stiles stated that the Commissioners could accept the staff recommendations and exclude the landfill property.

- Motion:** Mr. Stiles moved approval of Item #8 with the following conditions:
1. Eliminate § 1401-01-F4. Farm Stand
  2. Remove the Gray Roadfill, Inc. property from the new MA District
- Second:** Mr. Schneider
- Ayes:** Mr. Faux, Mr. Tarbell, Mr. Stiles, Mr. vom Hofe and Mr. Schneider
- Nays:** None, **motion carried**

*Items #9 and #10 were heard simultaneously.*

**ITEM #9** A report and recommendation on a proposed zone change at the Richard Miller Water Treatment property, 5651 Kellogg Avenue, from the RF-R Riverfront Residential/Recreational, SF-6 and SF-20 Single-Family Districts to RF-C Riverfront Commercial District in the neighborhood of California.

*Ms. Caroline Kellam, Senior Planner presented this item.*

#### **GENERAL INFORMATION:**

**Petitioner:** Greater Cincinnati Water Works Chester Park Complex  
4747 Spring Grove Avenue  
Cincinnati, Ohio 45232

**Request:** A change of zoning at 5651 Kellogg Avenue, from the RF-R Riverfront Residential/Recreational, SF-6 and SF-20 Single-Family Districts to RF-C Riverfront Commercial District

**Adjacent Land Use and Zoning:**

South: RF-R Riverfront Residential/Recreational District

East: SF-20 Single-Family District, RF-R Riverfront Residential/Recreational District and RF-C Riverfront Commercial District

North: SF-20 Single-Family

West: RF-R Riverfront Residential/Recreational District

**Staff Conference:** The Planning Division staff held a public conference on this request on Friday May 18, 2007. The petitioner and two neighboring property owners attended. There were questions of the Water Works staff, yet there were no concerns regarding the zone change.

**BACKGROUND:**

**Zoning History:** Prior to February 2004 the property at 5651 Kellogg Avenue was zoned RF-1 Riverfront (Recreational-Residential-Commercial) Zoning District.

**Existing Use:** The property at 5651 Kellogg Avenue is currently The Richard Miller Water Treatment Plant.

**Proposed Use:** The petitioner, Greater Cincinnati Water Works (GCWW) will continue to use the property as The Richard Miller Water Treatment Plant.

During the Zoning Code rewrite process, this property was mistakenly rezoned from RF-1 to RF-R, SF-6 and SF20. In the previous zoning code the RF-1 permitted public utilities. The current RF-R Zoning District does not permit public utility uses and under the SF-6 and SF-20 permit it is a conditional use and therefore a non-conforming use and a conditional use situation have been created.

During the Zoning Code rewrite process, it was the intent of the Planning Commission and staff to apply the new zoning designations based on existing use of the land areas. In this case the Water Works property needed a designation that permitted public utilities. This current inappropriate zoning impacts GCWW's ability to maintain and upgrade its facility as needed to protect the public water supply.



## **FINDINGS:**

**Community Response:** The California Community Council has been notified throughout this process and there has been no response.

## **ANALYSIS:**

In order to eliminate the non-conforming use staff chose the RF-C Riverfront Commercial Zoning District, which permits public utilities and will ensure that the GCWW can continue to provide quality drinking water by maintaining current and up-to-date facilities. This zone change is for Water Works property only.

## **CONCLUSIONS:**

- a) This property was rezoned RF-R Riverfront Residential/Recreational, SF-6 and SF-20 Single-Family thereby creating a non-conforming use and a conditional use situation.
- b) Previously, this property was zoned RF-1 Riverfront (Recreational-Residential-Commercial) Zoning District, which permitted public utility uses.
- c) This property is approximately 540 acres and can be rezoned without creating a spot zone.
- d) In order to eliminate the non-conforming use this property needs to be rezoned to RF-C Riverfront Commercial Zoning District.
- e) The RF-C zoning designation will not negatively impact the existing character of the surrounding area.
- f) The RF-C zoning designation will ensure that the GCWW can continue to provide quality drinking water by maintaining current and up-to-date facilities.
- g) This zone change is for Water Works property only.

## **RECOMMENDATION:**

The staff of the Planning Division recommended that the City Planning Commission take the following action:

1. Approve a zone change for the property located at 5651 Kellogg Avenue (The Richard Miller Water Treatment Plant) from the RF-R Riverfront Residential/Recreational, SF-6 and SF-20 Single-Family Districts to RF-C Riverfront Commercial Zoning District for the reasons that:
  - a) This property was rezoned RF-R Riverfront Residential/Recreational, SF-6 and SF-20, which created a non-conforming use and a conditional use situation.
  - b) Previously, this property was zoned RF-1 Riverfront (Recreational-Residential-Commercial) Zoning District, which permitted public utility uses.

- c) This property is approximately 540 acres and can be rezoned without creating a spot zone.
- d) In order to eliminate the non-conforming use this property needs to be rezoned to RF-C Riverfront Commercial Zoning District.
- e) The RF-C zoning designation will not negatively impact the existing character of the surrounding area.
- f) The RF-C zoning designation will ensure that the GCWW can continue to provide quality drinking water by maintaining current and up-to-date facilities
- g) This zone change is for Water Works property only.

**ITEM #10** A report and recommendation on a proposed zone change at the Water Works Main Pumping Station, 2545 Riverside Drive, from the RF-R Riverfront Residential/Recreational District and RMX Residential Mixed Multi-Family District to RF-C Riverfront Commercial District in the neighborhood of East End.

*Ms. Caroline Kellam, Senior Planner presented this item.*

#### **GENERAL INFORMATION:**

**Petitioner:** Greater Cincinnati Water Works Chester Park Complex  
4747 Spring Grove Avenue  
Cincinnati, Ohio 45232

**Request:** A change of zoning at 2545 Riverside Drive, from the RF-R Riverfront Residential/Recreational District and RMX Residential Mixed Multi-Family District to RF-C Riverfront Commercial District

#### **Adjacent Land Use and Zoning:**

South: RF-R Riverfront Residential/Recreational District

East: RMX Residential Mixed Multi-Family District

North: RMX Residential Mixed Multi-Family District  
SF-2 Single-family

West: RF-R Riverfront Residential/Recreational District,  
RMX Residential Mixed Multi-Family District

**Staff Conference:** The Planning Division staff held a public conference on this request on Friday May 18, 2007. The petitioner and two neighboring property owners attended. There were questions of the Water Works staff, yet there were no concerns regarding the zone change.

## **BACKGROUND:**

**Zoning History:** Prior to February 2004 the property at 2545 Riverside Drive was zoned RF-1 Riverfront (Recreational-Residential-Commercial) Zoning District.

**Existing Use:** The property at 2545 Riverside Drive is currently The Water Works Main Pumping Station.

**Proposed Use:** The petitioner, Greater Cincinnati Water Works (GCWW) will continue to use the property as The Water Works Main Pumping Station like they have for over 100 years.

During the Zoning Code rewrite process, this property was mistakenly rezoned from RF-1 to RF-R and a small portion on the north side of Riverside Drive to RMX. In the previous zoning code the RF-1 permitted public utilities. The current RF-R Zoning District does not permit public utility uses and under the RMX it is a conditional use and therefore a non-conforming use and a conditional use situation have been created.

During the Zoning Code rewrite process, it was the intent of the Planning Commission and staff to apply the new zoning designations based on existing use of the land areas. In this case the Water Works property needed a designation that permitted public utilities. This current inappropriate zoning impacts GCWW's ability to maintain and upgrade its facility as needed to protect the public water supply.

## **FINDINGS:**

**Community Response:** The East End Community Council has been notified throughout this process and there has been no response.

## **ANALYSIS:**

In order to eliminate the non-conforming use staff chose the RF-C Riverfront Commercial Zoning District, which permits public utilities and will ensure that the GCWW can continue to provide quality drinking water by maintaining current and up-to-date facilities. This zone change is for Water Works property only.

## **CONCLUSIONS:**

- h) This property was rezoned RF-R Riverfront Residential/Recreational and RMX Residential Mixed Multi-family thereby creating a non-conforming use and a conditional use situation.
- i) Previously, this property was zoned RF-1 Riverfront (Recreational-Residential-Commercial) Zoning District, which permitted public utility uses.
- j) This property is approximately 8.5 acres and can be rezoned without creating a spot zone.

- k) In order to eliminate the non-conforming use this property needs to be rezoned to RF-C Riverfront Commercial Zoning District.
- l) The RF-C zoning designation will not negatively impact the existing character of the surrounding area.
- m) The RF-C zoning designation will ensure that the GCWW can continue to provide quality drinking water by maintaining current and up-to-date facilities.
- n) This zone change is for Water Works property only.

### **RECOMMENDATION:**

The staff of the Planning Division recommended that the City Planning Commission take the following action:

Approve a zone change for the property located at 2545 Riverside Drive (The Water Works Main Pumping Station) from the RF-R Riverfront Residential/Recreational District and RMX Residential Mixed Multi-family to RF-C Riverfront Commercial Zoning District for the reasons that:

- (a) This property was rezoned RF-R Riverfront Residential/Recreational and RMX Residential Mixed Multi-family, which created a non-conforming use and a conditional use situation.
- (b) Previously, this property was zoned RF-1 Riverfront (Recreational-Residential-Commercial) Zoning District, which permitted public utility uses.
- (c) This property is 8.5 acres and can be rezoned without creating a spot zone.
- (d) In order to eliminate the non-conforming use this property needs to be rezoned to RF-C Riverfront Commercial Zoning District.
- (e) The RF-C zoning designation will not negatively impact the existing character of the surrounding area.
- (f) The RF-C zoning designation will ensure that the GCWW can continue to provide quality drinking water by maintaining current and up-to-date facilities

This zone change is for Water Works property only.

### **DISCUSSION**

Ms. Kellam gave a brief overview of the staff report and presented a map. She stated that the proposal would eliminate a non-conforming use and would ensure that the Greater Cincinnati Water Works could continue to provide quality drinking water by maintaining current and up-to-date facilities. She further stated that there were no objections from the Community Council.

<b>Motion:</b>	Mr. vom Hofe moved approval of Items #9 and #10
<b>Second:</b>	Mr. Schneider
<b>Ayes:</b>	Mr. Faux, Mr. Tarbell, Mr. Stiles, Mr. vom Hofe and Mr. Schneider

**Nays:** None, **motion carried**

**ITEM #11** A report and recommendation on an action to take with regard to a zone change request for properties at 2163 and 2600 Harrison Avenue and 2722, 2726 and 2728 Faber Avenue in the community of Westwood.

*Mr. Felix Bere, Senior Planner, presented this item.*

**PURPOSE:**

To inform the City Planning Commission about staff's engagement in the zoning study for the purpose of rezoning the above properties in Westwood.

**BACKGROUND:**

On June 26, 2007, the Economic Development Committee passed a motion instructing the administration to commence a study on the potential rezoning of 2600 Harrison Avenue, 2163 Harrison Avenue, 2722 Faber Avenue, 2726 Faber Avenue, and 2728 Faber Avenue in Westwood. The motion was prompted by a communication from Jim McNulty, president of the Westwood Civic Association dated June 22, 2007 requesting the rezoning of the vacant City controlled property in their community.

The City acquired the five parcels being proposed for rezoning after the community complained about the properties being a nuisance. City funds were also used to secure and demolish the buildings on the properties. At this juncture, neither the City nor the community has determined specific use/s for the subject vacant properties. The Westwood Civic Association has requested the zoning study because they would like to improve the ratio of single family to multi-family housing in Westwood.

**RECOMMENDATION:**

Since correspondence was sent to the Planning Commission from the Westwood Civic Association the staff of the City Planning Department wanted the City Planning Commission to be aware of the council motion directing the new zoning study.

No action was required by the City Planning Commission.

**DISCUSSION**

Ms. Wuerstle gave a brief overview of the staff report and explained that staff wanted the Planning Commission to be aware of the council motion directing the new zoning study.

Mr. Stiles commented that typically the Planning Commission directed zoning studies. Ms. Wuerstle gave a brief explanation of the three processes available for obtaining a zoning study.

**OTHER BUSINESS**

**ITEM #12** Special Planning Commission Meeting request for Friday, July 13, 2007, at 9:00 AM, regarding the American Can project. The July 20, 2007 meeting of the City Planning Commission will be cancelled.

**ITEM #13** Special Planning Commission Meeting request for Thursday, August 16, 2007, at 6:00 PM, regarding the Banks project revised PD Concept Plan. The August 17, 2007 meeting of the City Planning Commission will be cancelled.

Mr. Faux suggested that a larger room would most likely be needed for the August 16<sup>th</sup> meeting regarding The Banks. Mr. Tarbell suggested the Council Chambers.

Mr. Schneider stated that he had recently attended an ethics class for Planning Commissioners. He said that the course was very informative and offered to provide his notes and a CD of the class to any interested members.

Ms. Wuerstle informed the Commissioners that when the Supplemental Regulations for the Outdoor Eating and Drinking was amended it was recommended that the new parking regulations stay in that section. The CPC approved parking regulations also in both the Outdoor Eating and Drinking section and the Parking Section of the Zoning Code. She explained that this created a conflict in that the Outdoor Eating and Drinking Supplemental Regulations require a conditional use to modify the requirements whereas the Parking Sections require a variance to modify the regulations. The variance criteria are stricter than the conditional use criteria. Ms. Wuerstle asked if the Commission would support an amendment to the Supplemental Regulations for Outdoor Eating and Drinking establishments that would reference the Parking Section of the Code. Thereby requiring a variance for any modifications to the parking requirements. The Commission agreed that this recommended amendment to reference the Parking Section should be made in order to clear up the conflicting sections of the Code.

## **ADJOURN**

<b>Motion:</b>	Mr. vom Hofe moved to adjourn.
<b>Second:</b>	Mr. Tarbell
<b>Ayes:</b>	Mr. Faux, Mr. Tarbell, Mr. Stiles, Mr. vom Hofe and Mr. Schneider
<b>Nays:</b>	None, <b>motion carried</b>

---

Margaret A. Wuerstle, AICP  
Chief Planner

---

Caleb Faux, Chair

Date: \_\_\_\_\_

Date: \_\_\_\_\_